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Dental Hygienists in Ontario Can Now Legally Treat Their Spouses

By Lindsay Kantor

As of October 8, 2020, dental hygienists in Ontario can legally treat their spouses as defined by law.

Pursuant to the *Regulated Health Professions Act, 1991* (the “*RHPA*”), a regulated health professional in Ontario who engages in simultaneous therapeutic and sexual relationships with an individual is guilty of having committed “sexual abuse” of a patient. Moreover, a finding that a regulated health professional has committed “sexual abuse” of a patient leads to the **mandatory** revocation of that professional’s license to practice their profession.

In 2015, the *RHPA* was amended to provide Council at each regulatory College with the ability to make a regulation exempting the treatment of one’s spouse from that prohibition, which regulation would then require approval by the provincial government. Council of the College of Dental Hygienists of Ontario (the “*CDHO*”) made such a regulation shortly thereafter, and has spent the past five (5) years waiting for the requisite approval. That approval has finally been granted.

Effective October 8, 2020, dental hygienists in Ontario can treat their spouses without such treatment constituting sexual abuse of a patient, as long as the dental hygienist is not engaged in the practice of dental hygiene when any sexual conduct occurs and the sexual relationship is kept entirely out of the office setting. Moreover, as set out in the *RHPA*, the definition of “spouse” for these purposes is limited to only:

(a) a person who is the dental hygienist’s spouse as defined in section 1 of the *Family Law Act* (i.e. a person to whom the dental hygienist is married); or

(b) a person who has lived with the dental hygienist in a conjugal relationship outside of marriage continuously for at least three (3) years.

The CDHO has made it clear that treating a sexual partner who does not meet this definition of a spouse will continue to be considered sexual abuse of a patient.

This is a significant change to the CDHO's regulation of its members.

*If you have any questions, please **contact a member of our team.***

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